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Federal Communications Commission

WASHINGTON, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)PR Docket No. 93-144
RM-8117, RM-8030
RM-8029

and

Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)
800 MHz SMR)

PP Docket No. 93-253

To: The Commission:

COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following comments in response to the Commission's Further Notice of Proposed Rulemaking ("Further Notice"), FCC 94-271 (released November 4, 1993), in the above-captioned proceedings and, in particular, to the Commission's proposal regarding continued licensing of Specialized Mobile Radio ("SMR") systems on 800 MHz General Category and non-Public Safety Pool channels. Further Notice at ¶¶ 51-54.

APCO, founded in 1935, is the nation's oldest and largest public safety communications organization, with over 11,000 members involved in the management and operation of police, fire, emergency medical, forestry-conservation,

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highway maintenance, disaster relief, and other public safety communications facilities. APCO is the FCC-certified frequency coordinator for the Part 90 Police and Local Government Radio Services, and for all Public Safety Pool channels. APCO is also one of three authorized coordinators for the 800 MHz General Category channels.

APCO urges the Commission to act immediately to prohibit further SMR licensing on General Category and "Pool" channels. Indeed, APCO believes that the Commission should have taken such action long ago, before the SMR "land rush" which led to speculative SMR licensing and depletion of 800 MHz channels in many areas of the country. This problem is made worse by some SMR applicants' practice of filing obviously speculative applications for all 150 General Category channels at a single site, often without the site owner's approval.^{1/} Another factor leading to the current speculative environment was the Commission's unfortunate decision to extend "slow growth" authorizations to SMRs.

The General Category is currently open for licensing by SMRs and entities eligible in the Public Safety, Business, and Industrial/Land Transportation Radio Services. While

^{1/} APCO has received and forwarded to the Commission letters from several site owners confirming that they have not given, and will not give, consent to SMR applicants proposing to locate at their sites (which, in any event, often lack sufficient capacity for the proposed facilities). The Commission has not informed APCO as to how it will respond to such obvious deficiencies in these applications.

most public safety entities seeking 800 MHz channels prefer to be licensed in the Public Safety Pool or National Public Safety Plan channels, the General Category is sometimes the only source of available 800 MHz channels. Some public safety licenses in the General Category also have older assignments that predate the establishment of the dedicated 800 MHz Public Safety Pool, and are now looking for channels to expand their communications capabilities.

APCO's analysis of the FCC's license database indicates that, as of November 18, 1994, there were nearly 300,000 public safety radio units licensed on General Category channels to over 450 State and local government public safety agencies. Public Safety use of the General Category is expected to increase (at least to the extent channels are available) because of growing pressure on public safety communications systems and the lack of alternatives in many areas. APCO recently examined the availability of 800 MHz channels in the 25 largest metropolitan areas and, with few exceptions, found that there were no 800 MHz Public Safety Pool Channels or National Plan channels available. Unfortunately, the General Category is also depleted in many of these areas, in large part because of speculative SMR licensing. APCO's concern is that further SMR licensing in the General Category will saturate the band even in less populated areas.

Furthermore, as the General Category and Business and Industrial/Land Transportation (I/LT) Pools have become saturated with SMR licenses, Business and I/LT eligibles have in some cases turned to the 70 channel Public Safety Pool, attempting to obtain the few remaining channels there through intercategory sharing.^{2/} APCO has long opposed intercategory sharing of Public Safety Pool channels, as it blocks far more critical use of those channels by police, fire, emergency medical and other life-saving operations. All too often, a public safety agency will spend years obtaining necessary funding and bureaucratic approvals to develop or expand an 800 MHz system, only to find that a business entity has grabbed the only available channels. This problem will become much worse if SMRs seek General Category or Business and I/LT Pool channels as safe havens from auctions.

Therefore, APCO supports the immediate elimination of further SMR licensing in the General Category and Business and I/LT Pool Channels. Any delay in Commission action will lead to further depletion of scarce radio frequencies. APCO also supports efforts to weed out SMR licensees who have no genuine intention of constructing and operating their systems. For example, the Commission should require pending applicants to demonstrate that they have received approvals

^{2/} SMRs are not eligible for intercategory sharing of Public Safety Pool channels.

from the relevant site owners and that their proposed operations could be accommodated at that site (i.e., the tower has sufficient capacity).

Most importantly, APCO urges the Commission to prohibit further intercategory sharing of Public Safety Pool channels, in order to preserve the statutory priority for communications services that protect the safety of life and property. The extraordinary pressure on 800 MHz channels imposed by the SMR industry threatens to diminish the ability of state and local government agencies to use remaining frequencies for vital future expansion of public safety communications systems. Immediate Commission action is necessary.

Finally, under no circumstances, should the Commission even consider the alternative mentioned in the Further Notice of reserving the General Category exclusively for SMR use. That would preclude further public safety use of the General Category, destroying an important source of frequencies for public safety communications. Prohibiting further non-SMR Business and Industrial/Land Transportation use of the General Category would also place additional pressure on the Public Safety Pool channels.

CONCLUSION

Therefore, for the reasons stated above, APCO urges the Commission to prohibit further SMR licensing in the 800 MHz General Category and Business and Industrial/Land Transportation Pool channels, and to halt intercategory sharing of the Public Safety Pool channels.

Respectfully submitted,

**ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.**

By: 

**Robert M. Gurss
WILKES, ARTIS, HEDRICK & LANE,
Chartered
1666 K Street, N.W. #1100
Washington, D.C. 20006
(202) 457-7329**

Its Attorneys

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